



IN REPLY REFER TO

HEADQUARTERS
DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON 25, D. C.

Mr Casey

22 May 1959

ENGLE - ENGLP
(General)

SUBJECT: Acquisition and Relocation of Cemeteries

Dispatched
TO: *All Divs*

1. Recent discussions with personnel of the Department of Justice have emphasized the difficulty which is being encountered by that Department in attempting to secure Federal court orders approving the disinterment and reinterment of bodies buried in cemeteries. This problem becomes particularly troublesome in those instances where the Government has previously acquired the underlying fee or flowage easement in particular tracts of land, on which private cemeteries are located, leaving rights of burial and visitation outstanding and their later attempts to eliminate these outstanding rights through court action and, at the same time, secure a court order approving the plan of relocation of the cemetery. Several courts have objected to this approach to the cemetery relocation problem on the theory that the court is without jurisdiction when no interest in the land is being acquired.

2. It is the general policy of the Chief of Engineers, when fee or easement interests in land are to be acquired, to extinguish cemetery burial and visitation rights where the cemetery (or burial site) is to be relocated because of the effect of our project on the cemetery.

3. The following information is furnished in order to clarify cemetery relocation procedures now contained in Paragraph 7215.22, et seq. and EMs. (There is no change in the requirements of the relocation plan or condemnation assembly).

I. Public Cemeteries (Those under control of Cemetery Association, Church, etc.):

a. Fee and Flowage Easement Areas - (Cemetery will be relocated) - Condemn cemetery under arrangements with the cemetery association for relocation. The fee title will be acquired in all